

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	Case No. C04-116-TSZ-003
	)	
v.	)	<b>PROPOSED FINDINGS OF</b>
	)	<b>FACT AND DETERMINATION</b>
HOANG NAM DIEN,	)	<b>AS TO ALLEGED</b>
	)	<b>VIOLATIONS OF</b>
Defendant.	)	<b>SUPERVISED RELEASE</b>
	)	

I conducted a hearing on alleged violations of supervised release in this case on May 12, 2009. The defendant appeared pursuant to a summons issued in this case. The United States was represented by Ron Friedman, and defendant was represented by Peter Mazzone. Also present was U.S. Probation Officer Todd Sanders. The proceedings were digitally recorded.

Defendant was sentenced on August 27, 2004 by the Honorable Thomas S. Zilly for Conspiracy to Distribute MDMA (Ecstasy). He received 51 months of imprisonment and 3 years of supervised release.

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PROPOSED FINDINGS OF FACT AND  
DETERMINATION AS TO VIOLATIONS OF  
SUPERVISED RELEASE -1

1 PRESENTLY ALLEGED VIOLATIONS AND  
2 DEFENDANT'S ADMISSION OF THE VIOLATION

3 In a petition dated February 9, 2009, U.S. Probation Officer Michael J. Larson alleged that  
4 defendant violated the following conditions of supervised release:

5 1. Committing the crime of assault/domestic violence on or about October 30, 2008, in  
6 violation of the mandatory condition requiring he not commit another federal, state, or local  
7 crime.

8 2. Failing to report to the probation office for drug testing as instructed on December 2,  
9 2008, January 13, 2009, January 21, 2009, and February 7, 2009, in violation of the special  
10 condition requiring he participate as instructed in a program approved by the probation office for  
11 treatment of narcotic addiction, drug dependency or substance abuse, which may include testing  
12 to determine if the defendant has reverted to the use of drugs and alcohol.

13 3. Failing to work regularly at a lawful occupation since December 3, 2008, unless  
14 excused by the probation officer for schooling, training, or other acceptable reasons in violation  
15 of standard condition number five.

16 4. Failing to follow the instruction of the probation office since December 3, 2008, in  
17 violation of standard condition number three.

18 5. Failing to report for substance abuse treatment at Pioneer Adult Counseling Services  
19 since December 30, 2008 in violation of the special condition requiring he participate as  
20 instructed in a program approved by the probation office for treatment of narcotic addiction, drug  
21 dependency or substance abuse, which may include testing to determine if the defendant has  
22 reverted to the use of drugs and alcohol.

23 6. Failing to submit a truthful and complete written report for the months of December

1 2008 and January 2009, in violation of standard condition number two.

2 7. Failing to report to the probation officer as instructed on January 16, 2009, and  
3 February 3, 2009, in violation of standard condition number two.

4 Defendant admitted to violations 1, 2, 5, 6, and 7, waived any hearing as to whether they  
5 occurred, and was informed the matter would be set for a disposition hearing June 11, 2009 at  
6 1:30 p.m. before District Judge Thomas S. Zilly. The United States agreed to dismiss violations 3  
7 and 4.

8 RECOMMENDED FINDINGS AND CONCLUSIONS

9 Based upon the foregoing, I recommend the court find that defendant has violated the  
10 conditions of his supervised release as alleged above, and conduct a disposition hearing.

11 DATED this 12<sup>th</sup> day of May, 2009.

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13 

14 BRIAN A. TSUCHIDA  
United States Magistrate Judge